



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 223

September 9, 1994

Use of corporate funds to pay solicitation costs under section 253.100(b) of the Election Code. (AOR-249)

The Texas Ethics Commission has been asked about the application of section 253.100(b) of the Election Code in a particular situation. Section 253.100 provides in part as follows:

(a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee.

(b) *A corporation may make political expenditures to finance the solicitation of political contributions to a general-purpose committee assisted under Subsection (a) from the stockholders, employees, or families of stockholders or employees of one or more corporations. (Emphasis added.)*

Subsection (b), the "solicitation costs" provision, sets out individuals and entities from which contributions can be solicited in certain circumstances. The term "stockholders" includes members of an incorporated association that has members rather than stockholders. [Ethics Advisory Opinion No. 163](#) at 3 (1993). In this opinion we will refer to all the individuals and entities from whom contributions may be solicited under subsection (b) as the "solicitable class."

The request letter asks about the application of the "solicitation costs" provision to a particular general-purpose committee established by an incorporated association. The incorporated association in question has both corporate and noncorporate members. All members pay dues to the association and receive equal services from the association. The questions raised in the request letter have to do with the application of the "solicitation costs" provision in regard to corporate members of the association.

Solicitation From Employees, Etc., Of Corporate Members

The first question is whether Ethics Advisory Opinion No. 163 applies to *any* corporate member of the solicitable class of the incorporated association described in the request letter. [Ethics Advisory Opinion No. 163](#) addressed the application of the "solicitation costs" provision to a general-purpose committee established by an incorporated association that has corporate members. In regard to corporate members of an incorporated association, the opinion concluded that the solicitable class of an incorporated association includes the employees and stockholders or members (and the families of those groups) of corporate members of the incorporated association. Stated another way, the solicitable class of an incorporated association includes the solicitable class of each of its member corporations. That conclusion applies to the solicitable class of *any* corporate member of the incorporated association described in the request letter.¹

Use Of Funds From Corporate Members

The other questions raised in the request letter have to do with the use of funds that the general-purpose committee receives from corporate members of the solicitable class. The purposes for which the general-purpose

committee may use corporate funds are limited to the purposes described in section 253.100. Under subsection (a), the general-purpose committee may use corporate funds for administrative purposes. Subsection (b) permits a general-purpose political committee to finance solicitation of the solicitable class with funds from a corporation *that assists the general-purpose committee under section 253.100(a)*. Thus, the general purpose committee may use funds from a corporate member of the association to solicit contributions if the corporate member "assists" the general-purpose committee under subsection (a).

One way a corporation may "assist" a general-purpose committee is by being a dues-paying member of the corporation that established the general-purpose committee. [Ethics Advisory Opinion No. 217](#) (1994). Because all of the corporate members of the incorporated association described in the request pay dues to the association, all of the corporate members "assist" the general-purpose committee established by the incorporated association. Therefore, the general-purpose committee may use funds contributed by corporate members to solicit the entire solicitable class of the incorporated association (including any solicitable classes of member corporations).²

SUMMARY

The solicitable class of an incorporated association includes the solicitable class of each of its member corporations. All of the corporate members of the incorporated association described in the request pay dues to the association. Therefore, all of the corporate members "assist" the general-purpose committee established by the incorporated association, and the general-purpose committee may use funds contributed by corporate members to solicit the entire solicitable class of the incorporated association (including any solicitable classes of member corporations).

¹ The request letter states that all of the corporate members have the same obligations and privileges. If different classes of members had different obligations and privileges, there might be some question of whether all classes were members for purposes of the Election Code provisions regarding corporate political activity. *See generally* [Ethics Advisory Opinion No. 225](#) (1994) (Although a particular incorporated association had different classes of membership, members of all classes as set out in the corporate bylaws are members for purposes of sections 253.098 and 253.100(b) of the Election Code).

² Both subsections (a) and (b) say that a corporation may *make political expenditures* to support a general-purpose committee in specified ways. A corporation may do so either by paying the costs directly or by providing money to the political committee to use to pay such costs. [Ethics Advisory Opinion No. 132](#) (1993).